

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

WILLIAM J. HUFF, II as Trustee of the)
William J. Huff, II, Revocable Trust)
Declaration, Dated June 28, 2011,)
NICOLE E. HUFF as Trustee of the Nicole)
E. Huff Revocable Trust Declaration,)
Dated June 28, 2011,)
)
Plaintiffs,)
)
v.) No. 1:22-cv-00812-JPH-TAB
)
MONROE COUNTY,)
MONROE COUNTY PLAN COMMISSION,)
MONROE COUNTY PLANNING)
DEPARTMENT,)
)
Defendants.)

ORDER GRANTING LEAVE TO AMEND

Plaintiffs, William and Nicole Huff, brought this action on April 26, 2022, raising several constitutional claims against Monroe County, Indiana, its Plan Commission, and its Planning Department. Dkt. 1. The Huffs amended their complaint as of right on May 10, 2022, dkt. 11, before Monroe County responded to the original complaint. *See* Fed. R. Civ. P. 15(a)(1). In July 2022, Monroe County responded to the First Amended Complaint by filing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6). Dkt. 26. The next month, the Huffs filed a motion for leave to file a Second Amended Complaint "to address concerns raised by Defendants in their Motion to Dismiss and to more clearly articulate the factual bases for the claims the

Huffs assert in this case." Dkt. 35. Monroe County opposes the motion for leave to amend, arguing that it is futile. Dkt. 42.

Under Federal Rule of Civil Procedure 15(a)(2), the "court should freely give leave [to amend] when justice so requires." *See Runnion v. Girl Scouts of Greater Chi. & Nw. Ind.*, 786 F.3d 510, 519 (7th Cir. 2015). A plaintiff should therefore "be given every opportunity to cure a formal defect in his pleading . . . even [if] the court doubts that plaintiff will be able to overcome the defects." *Id.* If "it is clear that the defect cannot be corrected so that amendment is futile, it might do no harm to deny leave to amend." *Id.* But "[s]uch cases of clear futility at the outset of a case are rare" and "[a]mendment should be refused only if it appears to a certainty that plaintiff cannot state a claim." *Id.*

Monroe County's motion to dismiss the First Amendment Complaint and its opposition to the Second Amended Complaint based on futility would each have to be reviewed under Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6). *See Nowlin v. Pritzker*, 34 F.4th 629, 635 (7th Cir. 2022). Allowing parallel briefing on those issues "in piecemeal fashion" would thus "force the court" to essentially resolve two "motions to dismiss instead of one." *O'Boyle v. Real Time Resolutions*, 910 F.3d 338, 348 (7th Cir. 2018). The Huffs also promptly sought leave to amend in response to the motion to dismiss, instead of risking a finding of "undue delay and unfair prejudice" by waiting for a ruling on the motion to dismiss. *O'Boyle*, 910 F.3d at 348; *see Fosnight v. Jones*, 41 F.4th 916, 924–25 (7th Cir. 2022). For these reasons, "applying the liberal standard for amending pleadings, especially in the early stages of a lawsuit, is the best

way to ensure" that this case "will be decided justly and on [its] merits."

Runnion, 786 F.3d at 520; *see Saint Anthony Hosp. v. Eagleson*, 40 F.4th 492, 517–18 (7th Cir. 2022).

The Huffs' motion for leave to amend is therefore **GRANTED** under Federal Rule of Civil Procedure 15(a)(2). Dkt. [35]. The **Huffs must file** their Second Amended Complaint, dkt. 35-1, **by September 9, 2022**. Because Monroe County's motion to dismiss addressed the First Amended Complaint, it is **DENIED without prejudice as moot**. Dkt. [26].

SO ORDERED.

Date: 9/2/2022

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

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